



**T. MARKUS FUNK | PARTNER**

LITIGATION, WHITE COLLAR DEFENSE & COMPLIANCE

Founding Co-Chair, Supply Chain Compliance and Corporate Social Responsibility Practice

Founding Co-Chair, ABA Global Anti-Corruption Committee

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# Human Trafficking/Forced Labor Laws & Regulation Comparison Matrix

ENACTMENT	JURISDICTION	DISCLOSURE REQUIREMENTS	NON-DISCLOSURE/SUBSTANTIVE REQUIREMENTS	PENALTIES	EFFECTIVE DATE
<p><b>California Transparency in Supply Chains Act (SB 657)</b></p>	<p>All companies that are:</p> <ol style="list-style-type: none"> <li>1. Retail seller/manufacturer (based on tax status);</li> <li>2. With annual gross worldwide receipts exceeding \$100 million; and</li> <li>3. "Doing business" in California (property or salaries in California exceeding \$50K).</li> </ol>	<p>Disclosure must address what, if anything, done to:</p> <ol style="list-style-type: none"> <li>1. Verify supply chain to evaluate/address "risks of human trafficking and slavery."</li> <li>2. Audit suppliers to evaluate compliance with company standards. Unannounced and through independent auditors?</li> <li>3. Obtain certification from direct suppliers that materials incorporated into goods comply with local anti-trafficking and slavery laws.</li> <li>4. Maintain internal "accountability standards and procedures" for those who fail to meet your standards.</li> <li>5. Provide training to employees/management with supply chain responsibility (focus on mitigating supply chain risks and identifying trafficking).</li> </ol> <p>Note: Disclosures must be on internet homepage. Homepage disclosure must be through a "conspicuous" and "easily understood" link to full-text document.</p>	<p>None</p>	<ul style="list-style-type: none"> <li>• California Attorney General injunction for non-compliance.</li> <li>• Potential class action lawsuits for false or misleading declarations.</li> <li>• Consumer and advocacy group actions.</li> </ul>	<p>January 1, 2012</p>
<p><b>Executive Order on Trafficking in Government Contracts (EO 13627)</b></p> <p>The final rule amends Federal Acquisition Regulation Subpart 22.17 and Contract Clause 52.222-50</p>	<p>Applies to all federal contractors for goods/services (size/nature of contract irrelevant).</p>	<p>For contracts for services or supplies that are not off-the-shelf items that (1) exceed \$500,000 in value and (2) are to be performed outside U.S., contractors and subcontractors must create and post at the workplace and on their company website a formal compliance plan including:</p> <ul style="list-style-type: none"> <li>• An employee awareness program about U.S. anti-trafficking policy</li> <li>• A process for employees to report activity inconsistent with zero-tolerance policy without fear of retaliation</li> <li>• A recruitment and wage plan</li> <li>• Available disciplinary actions for employees that violate the policy</li> <li>• Reciprocal expectations between company and supplier</li> <li>• A housing plan</li> <li>• Preventative procedures for subcontractors</li> </ul> <p>Each contractor and subcontractor must formally certify that it has a compliance plan in place, has conducted due diligence, and has an absence of misconduct, or if misconduct was observed, that appropriate remediation and referral actions were taken.</p>	<p>Federal contractors, subcontractors, their employees and their agents prohibited from engaging in human trafficking, as evidenced through:</p> <ul style="list-style-type: none"> <li>• Using forced labor</li> <li>• Misleading/fraudulent recruitment practices</li> <li>• Charging recruitment fees</li> <li>• Destroying, concealing, confiscating, or otherwise denying employee access to his or her identity docs</li> <li>• Failing to pay return transportation costs</li> <li>• Failing to provide employment agreement (if required) in employee's native tongue and prior to employee's departure from home country</li> </ul> <p>Contractors and their subcontractors must agree to:</p> <ul style="list-style-type: none"> <li>• "Cooperate fully" with, and provide reasonable access to, agencies conducting investigations into, among other things, violations of this order</li> <li>• Self-report, among other things, "activities that ... are inconsistent with the requirements of this order or any other applicable law or regulation"</li> </ul>	<ul style="list-style-type: none"> <li>• Imprisonment: "Knowing and willful" false certification is a crime. Reckless disregard or conscious avoidance of truth qualify as "knowing." Consequences include up to five years' imprisonment and \$250K fine.</li> <li>• False Claims Act: Government Fraud (31 U.S.C. §3729).</li> <li>• Trafficking Victims Protection Act (22 U.S.C. § 7104(g): Federal agency may terminate your contract.</li> <li>• Debarment: Business death knell for non-compliance ( 48 CFR 9.406-2).</li> <li>• Loss of award fee or termination of contract.</li> </ul>	<p>March 2, 2015</p>



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<p><b>Executive Order on Trafficking in Government Contracts (EO 13627)</b></p> <p>The final rule amends Federal Acquisition Regulation Subpart 22.17 and Contract Clause 52.222-50</p>	<p>Applies to all federal contractors for goods/services (size/nature of contract irrelevant).</p>	<p>For contracts for services or supplies that are not off-the-shelf items that (1) exceed \$500,000 in value and (2) are to be performed outside U.S., contractors and subcontractors must create and post at the workplace and on their company website a formal compliance plan including:</p> <ul style="list-style-type: none"> <li>• An employee awareness program about U.S. anti-trafficking policy</li> <li>• A process for employees to report activity inconsistent with zero-tolerance policy without fear of retaliation</li> <li>• A recruitment and wage plan</li> <li>• Available disciplinary actions for employees that violate the policy</li> <li>• Reciprocal expectations between company and supplier</li> <li>• A housing plan</li> <li>• Preventative procedures for subcontractors</li> </ul> <p>Each contractor and subcontractor must formally certify that it has a compliance plan in place, has conducted due diligence, and has an absence of misconduct, or if misconduct was observed, that appropriate remediation and referral actions were taken.</p>	<p>Federal contractors, subcontractors, their employees and their agents prohibited from engaging in human trafficking, as evidenced through:</p> <ul style="list-style-type: none"> <li>• Using forced labor</li> <li>• Misleading/fraudulent recruitment practices</li> <li>• Charging recruitment fees</li> <li>• Destroying, concealing, confiscating, or otherwise denying employee access to his or her identity docs</li> <li>• Failing to pay return transportation costs</li> <li>• Failing to provide employment agreement (if required) in employee's native tongue and prior to employee's departure from home country</li> </ul> <p>Contractors and their subcontractors must agree to:</p> <ul style="list-style-type: none"> <li>• "Cooperate fully" with, and provide reasonable access to, agencies conducting investigations into, among other things, violations of this order</li> <li>• Self-report, among other things, "activities that ... are inconsistent with the requirements of this order or any other applicable law or regulation"</li> </ul>	<ul style="list-style-type: none"> <li>• Imprisonment: "Knowing and willful" false certification is a crime. Reckless disregard or conscious avoidance of truth qualify as "knowing." Consequences include up to five years' imprisonment and \$250K fine.</li> <li>• False Claims Act: Government Fraud (31 U.S.C. §3729).</li> <li>• Trafficking Victims Protection Act (22 U.S.C. § 7104(g): Federal agency may terminate your contract.</li> <li>• Debarment: Business death knell for non-compliance ( 48 CFR 9.406-2).</li> <li>• Loss of award fee or termination of contract.</li> </ul>	<p>March 2, 2015</p>



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<p><b>Executive Order on Trafficking in Government Contracts (EO 13627)</b></p> <p>The final rule amends Federal Acquisition Regulation Subpart 22.17 and Contract Clause 52.222-50</p>	<p>Applies to all federal contractors for goods/services (size/nature of contract irrelevant).</p>	<p>For contracts for services or supplies that are not off-the-shelf items that (1) exceed \$500,000 in value and (2) are to be performed outside U.S., contractors and subcontractors must create and post at the workplace and on their company website a formal compliance plan including:</p> <ul style="list-style-type: none"> <li>• An employee awareness program about U.S. anti-trafficking policy</li> <li>• A process for employees to report activity inconsistent with zero-tolerance policy without fear of retaliation</li> <li>• A recruitment and wage plan</li> <li>• Available disciplinary actions for employees that violate the policy</li> <li>• Reciprocal expectations between company and supplier</li> <li>• A housing plan</li> <li>• Preventative procedures for subcontractors</li> </ul> <p>Each contractor and subcontractor must formally certify that it has a compliance plan in place, has conducted due diligence, and has an absence of misconduct, or if misconduct was observed, that appropriate remediation and referral actions were taken.</p>	<p>Federal contractors, subcontractors, their employees and their agents prohibited from engaging in human trafficking, as evidenced through:</p> <ul style="list-style-type: none"> <li>• Using forced labor</li> <li>• Misleading/fraudulent recruitment practices</li> <li>• Charging recruitment fees</li> <li>• Destroying, concealing, confiscating, or otherwise denying employee access to his or her identity docs</li> <li>• Failing to pay return transportation costs</li> <li>• Failing to provide employment agreement (if required) in employee's native tongue and prior to employee's departure from home country</li> </ul> <p>Contractors and their subcontractors must agree to:</p> <ul style="list-style-type: none"> <li>• "Cooperate fully" with, and provide reasonable access to, agencies conducting investigations into, among other things, violations of this order</li> <li>• Self-report, among other things, "activities that ... are inconsistent with the requirements of this order or any other applicable law or regulation"</li> </ul>	<ul style="list-style-type: none"> <li>• Imprisonment: "Knowing and willful" false certification is a crime. Reckless disregard or conscious avoidance of truth qualify as "knowing." Consequences include up to five years' imprisonment and \$250K fine.</li> <li>• False Claims Act: Government Fraud (31 U.S.C. §3729).</li> <li>• Trafficking Victims Protection Act (22 U.S.C. § 7104(g): Federal agency may terminate your contract.</li> <li>• Debarment: Business death knell for non-compliance ( 48 CFR 9.406-2).</li> <li>• Loss of award fee or termination of contract.</li> </ul>	<p>March 2, 2015</p>



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# Human Trafficking/Forced Labor Laws & Regulation Comparison Matrix

ENACTMENT	JURISDICTION	DISCLOSURE REQUIREMENTS	NON-DISCLOSURE/SUBSTANTIVE REQUIREMENTS	PENALTIES	EFFECTIVE DATE
<p><b>Business Supply Chain Transparency on Trafficking and Slavery Act of 2015</b></p> <p>(Pending legislation - H.R. 3226)</p>	<p>All companies that are:</p> <ol style="list-style-type: none"> <li>Publicly traded; <i>and</i></li> <li>Have annual gross receipts in excess of \$100 million.</li> </ol>	<p>Statement describing to what extent, if any, company:</p> <ul style="list-style-type: none"> <li>Maintains policies to identify/eliminate risks of trafficking and slavery within supply chains, and actions taken pursuant to policies;</li> <li>Maintains policies prohibiting employees/employees of entities associated with supply chain from engaging in commercial sex acts with minors;</li> <li>Evaluates and addresses risks of human trafficking and worst forms of child labor in supply chains;</li> <li>Audits suppliers' working conditions/labor practices;</li> <li>Requires suppliers to attest that their product manufacturing/labor recruitments are carried out in compliance with trafficking and slavery laws, maintain internal accountability standards &amp; procedures, train employees responsible for supply chain management, and recruit employees in compliance with company anti-trafficking policies;</li> <li>Provides remediation to those who have been identified as trafficking and slavery victims.</li> </ul>	None	<ul style="list-style-type: none"> <li>Securities and Exchange Commission action for failure to adequately comply.</li> <li>Potential class action lawsuits for false or misleading declarations.</li> <li>Consumer and advocacy group actions.</li> </ul>	Depends on if/when pending legislation passed
<p><b>UK Modern Slavery Act of 2015 (Part 6 - Transparency in Supply Chains)</b></p>	<p>All companies that are:</p> <ol style="list-style-type: none"> <li>Supplier of goods and/or services;</li> <li>Corporation or partnership (wherever incorporated or formed) carrying on "a business, or part of a business," in any part of the UK; <i>and</i></li> <li>With a total annual turnover exceeding £36 million.</li> </ol>	<p>Statement detailing steps taken during the past financial year to ensure slavery and human trafficking are not taking place in (1) any of company's supply chains and (2) any part of its business.</p> <p>Approved/signed disclosure Statement may include information concerning:</p> <ul style="list-style-type: none"> <li>Company's structure/business/supply chains.</li> <li>Anti-trafficking/slavery policies.</li> <li>Anti-trafficking/slavery due diligence processes.</li> <li>Identification and management of higher-risk areas in business/supply chains.</li> <li>Effectiveness assessment of measures, based on performance measures company considers appropriate.</li> <li>Anti-trafficking/slavery trainings available to staff.</li> </ul>	None	<ul style="list-style-type: none"> <li>High Court injunction (civil action brought by Secretary of State).</li> <li>In Scotland only, action for specific performances of a statutory duty under § 45 of the Court of Session Act 1988.</li> </ul>	Royal assent received March 26, 2015
<p><b>Directive of the European Parliament and of the Council Concerning Various Disclosures</b></p>	<p>"The proposal provides that large companies should disclose non-financial information under a set of requirements devised to increasing transparency with the objective of strengthening the company's transparency and accountability, while limiting any undue administrative burden."</p>	<p>"Article 1 (a) of the proposal will require certain large companies to disclose a statement in their Annual Report including material information relating to at least environmental, social, and employee-related matters, respect of human rights, anti-corruption and bribery aspects. Within these areas, the statement will include (i) a description of its policies, (ii) results and (iii) risk-related aspects."</p>	None	Uncertain	N/A

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